

KCAPCD Rule 410.3 includes the following significant changes from the current SIP rule:

1. Adds an applicability statement, definitions, recordkeeping requirements and test methods.
2. Adds certain operating requirements and equipment requirements.
3. Deletes Executive Officer discretion in determining equivalent control systems.

KCAPCD Rule 412 contains the following changes from the current SIP rule:

1. Adds definitions, certain operating provisions, recordkeeping and test methods.
2. Deletes certain exemptions and Executive Officer discretion in determining equivalency of storage tank emission controls.

EPA has evaluated these submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, KCAPCD Rule 410.3 and Rule 412 are being proposed for approval under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future request for revision to any state implementation plan. Each request for revision to the state implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Regulatory Process

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301 and part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation

of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

The Office of Management and Budget (OMB) has exempted this action from review under Executive Order 12866.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401-7671q.

Dated: October 11, 1994.

John Wise,

Acting Regional Administrator.

[FR Doc. 94-26020 Filed 10-19-94; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 300

[FRL-5094-6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete Suffolk City Landfill from the National Priorities List: Request for Comments.

SUMMARY: The Environmental Protection Agency (EPA) Region III announces its intent to delete the Suffolk City Landfill from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9605. EPA has determined that all appropriate CERCLA response actions have been implemented and that no further CERCLA response actions are appropriate. Moreover, EPA has determined that all CERCLA response actions conducted at the Site to date have been protective of public health, welfare, and the environment. The Commonwealth of Virginia has concurred with these determinations.

DATES: Comments concerning this Site may be submitted on or before November 21, 1994.

ADDRESSES: Comments may be mailed to Ronnie M. Davis, Remedial Project Manager, Superfund General Remedial Branch (3HW40), Environmental Protection Agency, 841 Chestnut Street, Philadelphia, PA 19107.

Comprehensive information on this Site is available through the Region III public docket in Philadelphia and the Suffolk City Landfill Site information repository at the Morgan Memorial Library, 443 West Washington Street, Suffolk, Virginia.

FOR FURTHER INFORMATION CONTACT: Ronnie M. Davis, U.S. EPA Region 3, 841 Chestnut Street, Philadelphia, PA 19107, (215) 597-1727.

SUPPLEMENTARY INFORMATION:

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis for Intended Site Deletion

I. Introduction

The Environmental Protection Agency (EPA) Region III announces its intent to delete a site from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, as amended, and requests comments on this deletion. EPA identifies sites that present significant risks to human health or the environment and maintains the NPL as the list of the worst of those sites. Sites on the NPL may be remediated using the Hazardous Substances Superfund. As described in § 300.425(e) of the NCP, any sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action.

EPA plans to delete the Suffolk City Landfill Site in Suffolk, Virginia from the NPL.

EPA will accept comments on this Site for thirty days after publication of this document in the **Federal Register**.

Section II of this notice explains the criteria for deleting sites from the NPL. Section III discusses procedures that the EPA is using for this action. Section IV discusses the Suffolk City Landfill and explains how the Site meets the deletion criteria.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP, 40 CFR 300.425(e), provides that releases may be deleted from or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Releases may not be deleted from the NPL until the state in which the release was located has concurred on the proposed deletion. EPA is required to provide the State 30 working days for review of the deletion notice prior to publication in the **Federal Register**.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual right or obligations. The NPL is designed primarily for information purposes and to assist Agency management.

III. Deletion Procedures

Section 300.425(e)(4) of the NCP, 40 CFR 300.424(e)(4), sets forth requirements for deletion to assure public involvement in the decision. During the proposal to delete a release from the NPL, EPA is required to:

(i) Publish a notice of intent to delete in the **Federal Register** and solicit comment through a public comment period of a minimum of 30 calendar days;

(ii) Publish a notice of availability of the notice of intent to delete in a major local newspaper of general circulation at or near the release that is proposed for deletion;

(iii) Place copies of information supporting the proposed deletion in the information repository, described in § 300.430(c)(2)(iii) of the NCP, at or near the release proposed for deletion; and

(iv) Respond to each significant comment and any significant new data submitted during the comment period and include this response document in the final deletion package.

EPA must further place the final deletion package in the local information repository once the notice of final deletion has been published in the **Federal Register**.

This Notice of Intent to Delete, together with a concurrent notice in the local newspaper in the vicinity of the Site, announce the initiation of a 30-day public comment period. The public is asked to comment on EPA's intention to delete the Site from the NPL. All documents supporting EPA's decision to delete the Site from the NPL are available for inspection by the public at the information repository in the

vicinity of the Site and the EPA Region III office.

EPA will accept and evaluate public comments on this Notice of Intent to Delete before making a final decision on the deletion. EPA will then prepare a Responsiveness Summary which identifies and addresses significant comments received during the public comment period.

The final deletion decision is made following consideration of comments received during the comment period. The deletion occurs when a final deletion notice is published in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice of deletion. Public notices and copies of EPA's response to public comments received during the comment period will be made available for inspection by the public by the Regional Office.

IV. Basis for Intended Site Deletion

The Suffolk City Landfill Site, also known as the Hosier Road Landfill Site, is a 67-acre parcel situated east of Hosier Road (Virginia Route 604) in the City of Suffolk, Virginia. To the north of the Site is a 37-acre borrow area from which current cover material for the landfill was obtained. Bordering the Site to the east is undisturbed upper reaches of Pocosin Swamp, and an escarpment that defines the western boundary of the Great Dismal Swamp. To the southeast of the Site lies a privately-owned road. Two unnamed streams (unnamed streams N and E) are located north and east of the Site. These streams meet in an area adjacent to and northeast of the Site before emptying into the Pocosin Swamp, located east of the Site. There are about 40 to 45 residences located within one mile of the Site. Most of these residences are in areas south of the Site, where groundwater is the primary source of drinking water.

The City of Suffolk operated an unlined landfill at the Site from approximately 1967 to January 1985. The landfill received municipal solid waste primarily from the City and, before 1974, Nansemond County. The permit for the operation of the landfill was reissued in June 1983. The reissued permit required the City to close the landfill when the regional landfill became operational and to implement a closure plan which had been submitted to the Virginia Department of Health (VDOH).

In preparing to implement the closure plan, the City discovered documentation indicating that several tons of debris that contained pesticides had been disposed of in the landfill in 1970. The disposed pesticides, which

were damaged by a fire at the Dixie Guano Company, included Disulfoton, Cu7 Sulfur, 7 Sulfur, Thimet, and Cyanox. On June 3, 1970, the Tri-County Health District, the former Nansemond County (now City of Suffolk), State Water Control Board, the Virginia Department of Agriculture, and the Industrial Hygiene Department decided that the remaining pesticides would be disposed in a lime-lined trench that would be covered with lime and two feet of soil. The lime would promote hydrolytic processes that break down the pesticides. According to a June 5, 1970 VDOH memo, the pesticides were treated with lime and covered with two feet of soil in two trenches of approximately 120 feet long x 25 feet wide x 3 feet deep.

EPA completed a Preliminary Assessment in April 1985 and a Site Inspection in July 1986. As a result of these efforts and a Hazard Ranking System (HRS) scoring of the Site, EPA proposed to include the Site on the NPL in June 1988 and finalized the inclusion in February 1990.

In early 1989, the City placed an impermeable tarpaulin plastic liner over the pesticide disposal area to prevent surface water infiltration through the soil cover. The liner covers an area of approximately 100 feet long x 36 feet wide. A warning sign is currently posted next to the pesticide disposal area.

In June 1989, the City and the Virginia Department of Waste Management (VDWM) entered into an Administrative Order on Consent (AOC) which required the City to conduct a remedial investigation and feasibility study (RI/FS) to determine the nature and extent of contamination and to develop and evaluate cleanup alternatives. The AOC additionally required that the City implement a temporary leachate collection system (TLCS). The TLCS has been implemented and is currently being operated by the City Department of Public Works. The collected leachate has been periodically sampled and transported to Hampton Roads Sanitation District (HRSD) sewage treatment plant for treatment in accordance with a permit issued by HRSD.

During the remedial investigation (RI), surface water, sediment, and groundwater samples were taken at locations at and around the Site. These samples were analyzed for target pesticides, volatile compounds, semivolatile compounds, and metals.

Although pesticides were the focus of the RI, no pesticides were detected in any surface water, sediment, or groundwater samples, including

samples taken from a groundwater monitoring well located immediately downgradient of the pesticide disposal area (HRW-7). In addition, no organic compounds were detected at levels that presented an unacceptable risk to human health.

No metal contamination was detected above levels of concern in seven of the nine monitoring wells. Slightly elevated levels of arsenic were detected in two wells (HRW-3 and HRW-6) in the northern section of the landfill. Arsenic concentrations in filtered samples collected from these wells were 71.9 and 55.7 µg/l, respectively, slightly above the Maximum Contaminant Level (MCL) of 50 µg/l established under the Safe Drinking Water Act.

In the second sampling round, which was conducted in October 1991, the level of chromium detected in an unfiltered sample from one monitoring well (HWR-3) was 190 µg/l, exceeding the MCL of 100 µg/l. However, chromium was not detected in the filtered sample taken from this well for the same sampling event. Chromium levels in samples collected in the first sampling round (May 1991) from this well were also well below the MCL (23.6 µg/l in the unfiltered sample and below the detection limit in the filtered sample).

Surface water sampling in unnamed streams N and E showed arsenic and chromium levels well below the Virginia standard acceptable for the protection of aquatic life. In addition, the levels of these compounds in the stream sediments are below the average levels in soils of the eastern United States.

Sampling of benthic community in a nearby stream was conducted to provide further information for the determination whether the Site has impacted the surrounding areas. The results of the benthic sampling indicated low species diversity of benthic organisms in a sample taken in the area immediately downgradient of the landfill near the confluence of the unnamed streams N and E. However, subsequent surface water/sediment sampling at a nearby location in this stream revealed the absence of contamination, indicating the current Site condition was not likely the cause for the low benthic species diversity.

An animal survey in areas around the Site was also conducted. This study consisted of a comparison of animal species including mammals, birds, reptiles, amphibians, and fish species in areas around the Site to determine whether Site contamination has potentially impacted the local animal community. The results showed that

animal species in different areas around the Site are similarly diverse except at the benthic location from unnamed stream N in an area northeast of the Site.

Although onsite groundwater in the northern section of the Site presents slightly elevated risk, the offsite risks are expected to be significantly reduced from the onsite risk levels. As the groundwater migrates offsite, the arsenic and metals in the groundwater are adsorbed by the soils in the aquifer. Most of the water in the Columbia aquifer, the shallow aquifer, discharges into unnamed stream N, where surface water/sediment sampling showed no contamination.

Currently there are no residences in the area where ground-water contamination has been observed. There are no residential drinking water wells located directly downgradient of the Site. Most residential drinking water wells are located upgradient of the Site (south of the Site). Groundwater sampling of monitoring wells located along the southeastern edge of the Site revealed no contamination, indicating no contaminant migration in this direction from the Site.

In September 1992, EPA issued a Record of Decision (ROD) for the Site in which the Agency selected "No Action." EPA concluded that the Site poses a risk to human health only in the event that contaminated groundwater existing within certain areas of the Site is consumed. No consumption of this groundwater is occurring at this time and none is expected to occur in the future. Surface water sampling in the nearby streams indicates that the contaminant levels are protective of aquatic life. EPA concluded that the No-Action remedy is protective of human health and the environment and that further remedial action under CERCLA is not warranted. The Commonwealth of Virginia concurred with this remedy selection.

The Suffolk City Landfill ceased receiving wastes in 1985, and final closure is pending. In accordance with the Virginia Solid Waste Management Regulations, the owner/operator (City of Suffolk) must implement a groundwater monitoring program to collect ground-water samples that are representative of conditions in aquifers beneath the Site. EPA will use these ground water sample results to monitor the protectiveness of the No Action remedy. The City of Suffolk has submitted a monitoring plan, which is still being reviewed by EPA.

Sampling results indicating that there is no offsite migration of contaminants, the low level risk associated with the on-site contaminants, and the

monitoring requirements which can identify any future need for groundwater remediation are major factors leading to EPA's decision to delete this Site from the NPL.

As set forth in the ROD, EPA will conduct five-year reviews in accordance with section 121(c) of CERCLA, 42 U.S.C. 9621(c), to assure continued protection of human health and the environment.

Dated: September 1, 1994.

W.T. Wisniewski,

Acting Regional Administrator, Region III.

[FR Doc. 94-26022 Filed 10-19-94; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 1357

RIN AB44

Child Welfare Services Program

AGENCY: Administration on Children, Youth and Families, Administration for Children and Families, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to amend the regulations governing direct payments to Indian Tribal Organizations (ITOs) for child welfare services, by eliminating the requirement that to be eligible ITOs must provide services under contract (or grant) with the Secretary of the Interior under section 102 of the Indian Self-Determination Act, and by adding a description of the formula used to calculate the amount of Federal funds available to eligible ITOs under title IV-B, Subpart 1 of the Social Security Act. We believe that complex and limiting eligibility requirements and low grant amounts have resulted in low ITO participation rates. The amendment will improve the quality of Indian child welfare services nationally by broadening eligibility and by allowing for an increase in grant amounts.

DATES: Comments must be submitted on or before December 19, 1994.

ADDRESSES: Please address comments to Associate Commissioner, Children's Bureau, Administration on Children, Youth and Families, P.O. Box 1182, Washington, DC 20013; Attention: Michael Ambrose

Beginning 14 days after the close of the comment period, comments will be available for public inspection in room 2219, 330 C Street, SW., Washington,